No. 15,338

In the United States Court of Appeals for the Ninth Circuit

ALTHEA G. WILLIAMS, APPELLANT

v.

UNITED STATES OF AMERICA, APPELLEE

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA, SOUTHERN DIVISION

BRIEF FOR APPELLEE

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JURISDICTION

This appeal brings this Federal Torts Claims Act suit here for the second time. See 215 F. 2d 800. This Court's jurisdiction rests on 28 U.S.C. 1291. Notice of appeal was filed August 27, 1956, from a judgment in favor of the United States entered on July 12, 1956 (T.R. 16, 17).[1]

STATEMENT

Appellant, an employee of a private construction firm in Guam, sustained personal injuries when a

[1] "T.R." refers to the pages of the typewritten record on this appeal; "R." references are to the pages of the record printed for the United States Supreme Court in this case and filed here pursuant to stipulation. See T.R. 23-24.

parked car in which she was sitting was struck by a military vehicle driven by a Cpl. Seabourn (R. 51, 168). The accident occurred in Agana, Guam, at about 10:30 P. M. on March 3, 1949 (R. 51, 168).

The facts concerning Seabourn's use of the vehicle —all of which were "fully established as true" by "credible and competent evidence of a convincing character"—are summarized in this Court's earlier opinion as follows (215 F. 2d 800, 803-804; R. 170-172):

> Seabourn obtained an appropriate pass to leave the army base on and for the day of March 3, 1949. Accompanied by two other soldiers (Schmidt and Vincent) he spent the afternoon drinking beer. The three men returned to the base about 7 p. m. and while there, a Sergeant Stiles, a member of Seabourn's company, gave Seabourn a so-called "trip ticket" for a ¾ ton vehicle known as a "weapons carrier." This ticket had been made out about 8 a. m. that morning to a driver named Cabera, a soldier who also worked with Seabourn, and it discloses that the vehicle had been requested by a Lt. W. R. Werb, and use of the vehicle was therein authorized for "Official Business." Listed on the ticket are the various special points to which the weapons carrier was driven that day. Neither Seabourn's nor Stiles' name appears on the ticket, nor was Seabourn's use of the vehicle in any way indicated thereon.
>
> By means of this "ticket," Seabourn secured possession of the vehicle and in company with the two men named drove to the Enlisted Men's Club on the Island where they drank more beer as well as some champagne, and then they decided to "go

for a ride." Thereafter, and prior to the accident here involved, Seabourn let his companions out of the vehicle and drove off alone. These companions later swore that Seabourn was then "definitely drunk," and Seabourn himself swore that he remembered nothing further until the next morning when he awoke beside a road.

Seabourn's use of the vehicle while thus "off duty" and in quest of entertainment, was not a use in furtherance of any prescribed or indicated military duty. The vehicle was not being used in Seabourn's "off duty" period to serve any prescribed or noted military purpose or interest of the government, nor was Seabourn's use motivated by such a purpose. His superior military authorities had no knowledge of, or supervision over, the use of the vehicle while it was in Seabourn's possession, nor any control over Seabourn after he had secured it from Stiles by using the Cabera ticket which had been previously issued by Lt. Werb * * * . Nor was any military order issued by a superior officer directing or authorizing Seabourn to use the vehicle for *any purpose,* military or otherwise (including "recreation"), or for the execution of any military order.

Notwithstanding the foregoing facts, which this Court's opinion emphasized "are fully reflected in the record before us" (R. 172), appellant's complaint against the United States under the Tort Claims Act asserted that Seabourn's negligent operation of the vehicle was in the line of his duty for the Government (R. 1). These allegations were denied in the Government's answer (R. 6). Upon trial of the case, the Dis-

trict Court for the Northern District of California found that the accident was caused by Seabourn's negligence (R. 51). It further found, however, that Seabourn was off duty and away from his base on a pass when the accident happened; that he had obtained unauthorized possession of the military vehicle; that he was not using it for any purpose authorized by Army Regulations, by his superior officers, or by the trip ticket; that, instead, he was on a frolic of his own, and not acting within the scope of his employment (R. 47, 51-52). Judgment was therefore entered in favor of the Government (R. 52-53).

On appeal, this Court approved the district court's findings. 215 F. 2d 800. In addition, as already noted, this Court reviewed the facts independently and found that "Seabourn's use of the vehicle while * * * 'off duty' and in quest of entertainment, was not a use in furtherance of any prescribed or indicated military duty"; that Seabourn did not use the vehicle to "serve any prescribed or noted military purpose or interest of the government"; that his use of the vehicle was not "motivated by such a purpose"; that his superior officers "had no knowledge of, or supervision over, the use of the vehicle while it was in Seabourn's possession, nor any control over Seabourn after he had secured it from Stiles"; and that no order had been issued by any superior officer "directing or authorizing Seabourn to use the vehicle for *any purpose,* military or otherwise (including 'recreation')" (R. 172).

This Court's opinion further pointed out (215 F. 2d 800, 808-809; R. 180):

> Reduced to their simplest terms, the facts of this case show beyond any doubt that Seabourn was out

> on a wild frolic when he injured appellant; that he was then drunk and in an irresponsible mood; that he was not then executing any military order or on military business of any kind. And if resort be had to the California cases cited in our Murphey opinion which deal with liability of a private employer (under the respondeat superior doctrine), we suggest that it would bankrupt the most exuberant imaginative powers to envision Seabourn's criminal conduct as an activity which a private employer "should reasonably have expected would be done," or that such conduct was "serving his master".

Noting that a private employer would not "be held liable in damages for the tortious act of an employee occurring on an allowed 'day off' while he is out driving on a joy ride while drunk," this Court affirmed the district court judgment, which had exonerated the Government from liability for Seabourn's negligence while "out on a wild frolic" (R. 179, 180, 183).

Appellant thereupon filed a Petition for a Writ of Certiorari in the Supreme Court, stressing the conflict in decisions between the circuits as to whether the "scope of employment" or "*respondeat superior*" question in Federal Tort Claims Act suits was to be decided by reference to Federal law or to the law of the State where the negligent act or omission occurred (Pet. No. 470, Sup. Ct., Oct. T., 1954, pp. 7-13).[2] The Supreme

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[2] The Fifth Circuit, in *United States* v. *Campbell*, 172 F. 2d 500, 503 (C.A. 5), certiorari denied, 337 U.S. 957, had viewed State law as controlling. See also *United States* v. *Eleazer*, 177 F. 2d 914 (C.A. 4), certiorari denied, 339 U.S. 903. This Court, on the other hand, had held in its opinion in this *Williams* case that Federal

Court granted the petition and resolved the conflict by holding that local law controlled. The Supreme Court accordingly declared (350 U.S. 857):

> The case is controlled by the California[3] doctrine of respondeat superior. The judgment [of the Court of Appeals] is vacated and the case is remanded [to the District Court] for consideration in light of that governing principle.

On remand, the district court recognized that "the only question now before the court is whether the facts of this case, when considered under applicable California law, will support plaintiff's contention that Seabourn was acting within the scope of his employment at the time of the collision" (T.R. 5). After a careful and detailed review of the California cases (T.R. 6-13), the district court ruled that (T.R. 13):

> * **Seabourn's conduct on the entire day of the collision cannot be construed under California law to have been within the scope of his employment. At the time of the accident he was on his day off—subject to his own whims, desires and devices. The evidence is devoid of any showing that Seabourn, at any time during the course of his day off interspersed his employer's work with his own personal and unrelated activities. In the absence of these

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law was determinative, at least where the plaintiff had been injured by a Federal military employee rather than by a civilian. 215 F. 2d 800, 807; R. 178-179. This accorded with the Fourth Circuit's view at that time. *United States* v. *Sharpe,* 189 F. 2d 239, 241.

[3] Guam has adopted, as this Court has already noted in this case, "the rule of respondeat superior in force in California. It is thus 'the law of the place,' i.e., Guam." 215 F. 2d 800, 802; R. 170. See also *United States* v. *Johnson,* 181 F. 2d 577, 580-581 (C.A. 9).

> factors the court finds that the facts in this case do not meet the test of the respondeat superior doctrine as enunciated by the California cases so as to impose financial responsibility on the United States.

In view of this ruling and on the basis of the earlier findings of fact entered by the district court at the time of its first judgment in the case—all of which findings were expressly "remade and reinstated"—the court again directed the dismissal of the complaint and the entry of judgment in favor of the United States (T.R. 16, 17).

QUESTION PRESENTED

Whether the trial court, in light of the applicable California rule of *respondeat superior,* correctly held that the Federal Government was not liable for injuries caused by a serviceman who, while off duty and on pass, obtained unauthorized possession of a military vehicle and went joy riding in it.

STATUTE AND REGULATIONS INVOLVED

The relevant provisions of the Federal Tort Claims Act and the Army Regulations are set forth in the Appendix, pp. 18-20.

SUMMARY OF ARGUMENT

The question now here for decision is a narrow one—*i.e.,* whether, under California law, Seabourn was acting at the time of the accident within the scope of his employment for the United States. Our discussion below shows first that California, like other jurisdictions, imposes *respondeat superior* liability only where the employee is engaged in the furtherance of his employer's

business at the time of the tort. We then show that the facts here undeniably establish that the course of conduct embarked upon by Seabourn was the very antithesis of that encompassed by his course of employment. At the time of the accident, Seabourn was in the quest of personal entertainment. And, as this Court has already stated in reviewing the facts here involved, he was not at that time furthering or serving any "prescribed or noted military purpose or [other] interest of the government" (215 F. 2d 800, 804; R. 172). It follows, we submit, that the district court was plainly correct in refusing to impose any vicarious liability on the United States for Seabourn's tort.

ARGUMENT

Under California Law, Seabourn Was Not Acting Within the Scope of His Employment

A. *The California Rule of Respondeat Superior Imposes Liability Only Where the Employee Was on His Employer's Business at the time of the Tort*

There is a basic and universally accepted pre-condition for application of the *respondeat superior* doctrine in order to hold an employer vicariously liable for his servant's tort. It is that the servant, at the time of the accident, must be "conducting the master's affairs * * *. The master's responsibility cannot be extended beyond the limits of the master's work." The *Standard Oil Co.* v. *Anderson,* 212 U.S. 215, 221; *Balinovic* v. *Evening Star Newspaper Co.,* 113 F. 2d 505, 506 (C.A. D.C.); *Farwell* v. *Boston and Worcester Railroad Corporation,* 4 Metcalf 49, 55-56. The "ground of liability

of the master for the negligent act of the servant is that the servant is conducting the master's affairs." *United States* v. *Eleazer,* 177 F. 2d 914, 916 (C.A. 4), certiorari denied, 339 U.S. 903. The "dominant purpose," as stated by Cardozo, J., "must be proved to be the performance of the master's business." *Fiocco* v. *Carver,* 234 N.Y. 219, 223, 137 N.E. 309. Obviously, if the employee is not prosecuting or furthering his employer's business, "his acts cannot, upon the doctrine of respondeat superior, be imputed to the employer. * * * No jurisprudence with which we are familiar holds to the contrary or states the principle differently." *Johnson* v. *Esso Standard Oil Co.,* 211 F. 2d 397, 399, 400 (C.A. 5).

California, of course, follows the same rule. It recognizes that the touchstone for *respondeat superior* liability is the servant's furtherance of his master's business at the time of the accident. The California cases accordingly hold that an employee's negligence will not be imputed to his master if the negligence occurs when the servant uses his master's vehicle not for the purpose of performing any employment duties assigned to him, but after hours while he is off duty and on a personal mission.

Three of the leading California cases, discussed in the opinion below, are close on their facts to the present case. (T.R. 6-9). These cases underscore the full recognition by California courts of the principles (1) that the master-servant relationship itself is not a sufficient basis on which to predicate a *respondeat superior* liability and (2) that there can be no such liability where, at the time of the accident, the employee is engaged on his own and not on his employer's business. Thus, in *Kish*

v. *California State Automobile Assn.,* 190 Cal. 246, 248, 212 Pac. 27, the California Supreme Court refused to impose a *respondeat superior* liability where the employee at the time of the accident was not in performance of any act connected with the business of his employer but had finished his work for the day and was off duty and on his way downtown for supper. Again, *Lee* v. *Nathan,* 67 Cal. App. 111, 226 Pac. 970, held that there could be no *respondeat superior* liability where the employee was driving the employer's vehicle after duty hours while pursuing his own ends despite the fact that the injuries to the plaintiff could not have been committed without the facilities so afforded to the employee by the employer. And in *Slater* v. *Friedman,* 62 Cal. App. 668, 672, 217 Pac. 975, the court reiterated the rule that where the servant's "act is done while the servant is at liberty from service and pursuing his own ends exclusively, there can be no question of the master's freedom from all responsibility, even though the injury complained of could not have been committed without the facilities afforded to the servant by his relation to the master." [4]

This Court's decision four months ago in *Pacific Freight Lines* v. *United States,* 239 F. 2d 191, furnishes still more recent authority for the view that California law does not impose a *respondeat superior* liability unless at the time of the accident the employee was actively engaged in furthering his employer's business rather than his own personal interests. *Pacific Freight,* just as the case now here, was a Federal Tort Claims

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[4] It is significant that these three California cases, relied upon by the trial court and discussed at length in his oral opinion (T.R. 6-9) are not distinguished, discussed, or even cited in appellant's brief.

Act suit arising out of an accident involving a military vehicle driven by a serviceman. In addition, like the present case, the principal question in *Pacific Freight* was whether the serviceman was acting within the scope of his employment under California law. 239 F. 2d 191, 193. After reviewing the pertinent California cases, this Court in *Pacific Freight* exonerated the Government from liability, holding that the serviceman was not acting within the scope of his employment under California law at the precise time of the accident because he was not then performing service for the Government. 239 F. 2d 191, 195.

We submit that the identical conclusion is called for here. Seabourn, as the record shows, was not on Government business at the time of the accident. Seabourn's regular duty was that of supply clerk (R. 13). On the day of the accident, March 3, 1949, he was on pass, "did not work at all," and "just took off" (R. 14, 24). His taking and use of the Government vehicle was not even remotely connected with his duties as a supply clerk or with any other "official duties" (R.17, 26). Instead, he took possession of and used the vehicle to indulge in joy riding and in drinking. As noted by the court below (T.R. 13), Seabourn "was on his day off—subject to his own whims, desires and devices. The evidence is devoid of any showing that Seabourn, at any time during the course of his day off interspersed his employer's work with his own personal and unrelated activities."

When this case was first here, this Court, after discussing the foregoing facts, flatly pointed out that under California law Seabourn's conduct could not possibly be viewed as being within the scope of his employment (215 F. 2d 800, 808-809; R. 180):

> Reduced to their simplest terms, the facts of this case show beyond any doubt that Seabourn was out on a wild frolic when he injured appellant; that he was then drunk and in an irresponsible mood; that he was not then executing any military order or on military business of any kind. *And if resort be had to the California cases cited in our Murphey opinion which deal with the liability of a private employer (under the respondeat superior doctrine), we suggest that it would bankrupt the most exuberant imaginative powers to envision Seabourn's criminal conduct as an activity which a private employer "'should reasonably have expected would be done,'" or that such conduct was "'serving his master.'".* (Emphasis supplied.)

There has been, of course, no change in the California law of "scope of employment" since the date of this Court's earlier opinion in this case.[5] Seabourne's conduct, we respectfully submit, must therefore—in the course of this Court's present reconsideration of this case—still be viewed as not being within the scope of his employment under California law.[6]

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[5] While the judgment of this Court, implementing its earlier opinion, was vacated by the Supreme Court, 350 U.S. 857, nothing the Supreme Court said in any way detracts from the validity of that part of this Court's earlier opinion based on the California law of scope of employment. To the contrary, the whole purpose underlying the Supreme Court's review and holding in this case was to insure application of such California law. 350 U.S. 857. See fn. 2, p. 5.

[6] It is also important to note that the Government's lack of control over Seabourn in the performance of the negligent act which caused the injury constitutes an additional and independent reason precluding *respondeat superior* liability here. It cannot be challenged that Seabourn, at the time of the accident, was on pass and free of any military duty (R. 17, 26, 51, 170, 179). His relation-

B. *The "Recreational Activity" Label, Placed by Appellant on Seabourn's Unauthorized Use of the Military Vehicle for Drinking and Joy Riding, Does Not Bring It within the Scope of His Employment*

We fully recognize that the armed services, like many other employers—are directly concerned with the morale and recreation of servicemen. A sound recreational program improves employees' morale and efficiency, enables them to maintain work at a high level, and thus indirectly benefits the employer's business.[7]

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ship to the Government while on this pass or off-duty status "was not analogous to that of a soldier * * * performing duties under orders." *Feres* v. *United States,* 340 U.S. 135, 146. A soldier who is off duty or on pass is not engaged in the business of the United States. While on pass or leave, a serviceman "is at liberty to go where he will during the permitted absence, to employ his time as he pleases, and to surrender his leave if he chooses." *United States* v. *Williamson,* 23 Wall. 411, 415. The leave is a favor extended "for his sole accommodation" to permit him to "enjoy a respite from military duty." *Foster* v. *United States,* 43 C.Cls. 170, 175; see *Hunt* v. *United States,* 38 C.Cls. 704, 710.

[7] The decided cases, however, take the view that the benefits inuring to the employer through improved employee morale are too indirect and intangible to justify imposition of *respondeat superior* liability. Thus, the courts have noted that increased employee morale and loyalty does not warrant the conclusion that "the servant taking advantage of this permission [to use employer's car] is in a legal sense promoting or faciliting the master's business." *Adams* v. *Quality Service Laundry & Dry Cleaners,* 253 Wis. 334, 337, 34 N.W. 2d 148; *Gewanski* v. *Ellsworth,* 166 Wis. 250, 253, 164 N.W. 996. See also *Rogers* v. *A.-C. Mfg. Co.,* 153 Ohio St. 513, 92 N.E. 2d 677 (employer not liable for tort of employee playing on employer's team in industrial golf league); *Toms* v. *Delta Savings & Loan Ass'n,* 162 Ohio St. 513, 124 N.E. 2d 123 (employer not liable for tort of baseball player where employer furnished team with uniforms and equipment); *Stenzler* v. *Standard Gas Light Co. of N. Y. City,* 179 App. Div. 774, affirmed, 226 N.Y. 681, 123 N.E. 891 (employer not liable for injuries resulting from collision with its truck which was lent to employees for use on a picnic); *Harrington* v. *Border City Manuf. Co.,* 240 Mass. 170, 132 N.E. 721

And we also recognize that there may be even greater need for employer-organized and employer-supervised recreational activities where employees are based on an island, like Guam, thousands of miles removed from the homeland.

The pertinent Army Regulations, No. 700-105 (*infra*, pp. 19-20), do allow the use of Army vehicles, whenever possible, for "authorized, organized, and supervised recreational" activities. When the vehicles are so used, the driver assigned to drive the vehicle acts within the scope of his employment because he has been authorized to drive it and because employer-controlled and employer-supervised recreation may be viewed as furthering the employer's business. In our view, *Murphey* v. *United States*, 179 F. 2d 743 (C.A. 9), which is so heavily relied upon by appellant, holds nothing more than that the driver of an Army truck, acting pursuant to orders in carrying an organized group of soldiers into town for a specified recreational activity, is within the scope of his employment even though the accident happened about two or three blocks off his prescribed route. See the discussion of the *Murphey* case in this Court's earlier opinion, 215 F. 2d 800, 805-806; R. 174-5.

In the present case, it is plain that Seabourn was not using the vehicle to transport military personnel in connection with an organized and authorized activity. Instead, his taking and use of the vehicle was "unau-

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(employer not liable for injuries resulting from baseball game played by employees during lunch hour on employer's premises); *Beatty, Appellant* v. *Firestone T. & R. Co.*, 263 Pa. St. 271, 106 Atl. 303; *Reilly* v. *Connable*, 214 N.Y. 586, 108 N.E. 853; *Stenger* v. *Mitchell*, 70 Ga. App. 563, 28 S.E. 2d 885; *Loucks* v. *R. J. Reynolds Tobacco Co.*, 188 Minn. 182, 246 N.W. 893.

thorized," "without the knowledge or approval" of his superior officers, and in contravention of applicable Army Regulations (R. 47, 180). When the accident happened, Seabourn, whose entire trip was unauthorized, had not merely deviated from a prescribed, official route, as had the soldier in the *Murphey* case. Seabourn's "wild, reckless and wholly independent act of violence" while joy riding and drunk was, as this Court observed, "a far cry" from any recreational activity authorized in the Army Regulations (R. 180; see also T.R. 11). Moreover, the theory that a recreational activity subjects an employer to a *respondeat superior* liability is the assumption, noted above, that the activity will improve the employee's efficiency and increase his work output, with the resulting benefit to the employer.[8] Obviously, Seabourn's conduct, far from being calculated to improve his efficiency was much more likely to result in a serious accident with disabling injuries which would impair, if not completely destroy, his work efficiency.

Throughout her brief appellant (1) assumes that the record requires a finding of a custom or practice in Seabourn's unit to use military vehicles, issued to others for official use, for individual recreational purposes, and (2) urges that this "custom" or "practice", although in plain contravention of the regulations, is enough to demonstrate that Seabourn was acting within the scope of his employment. While there may be slight evidence of such a custom in the record, it is highly significant that due to the apparent meagerness of such evidence, neither the trial court nor this Court accepted appellant's proposed factual finding that Seabourn's

[8] Cf. cases cited *supra*, fn. 7, pp. 13-14.

use of the vehicle "was in accordance" with such an "established custom" (R. 45, 49, 55, 180). In addition, both courts found that no responsible official authorized Seabourn's use of the vehicle (R. 47, 172, 180), and this Court's earlier opinion indicated that, if the claimed practice existed, no proper officer countenanced or knew about it (215 F. 2d 800, 808; R. 180).

In any event, even if it is assumed that in Seabourn's particular unit military vehicles were passed on from one serviceman to another and surreptitiously used, despite the trip ticket, for off-the-post individual recreation, that casual and illegal practice cannot transform Seabourn's drunken frolic into a recreational activity within the scope of his employment. In the first place, such a drunken frolic obviously serves no governmental purpose or interest and hence cannot be viewed as coming within the employee's "scope of employment" under California law. See pages 8-12. Secondly, as we have pointed out (p. 15), "recreation" of this character can hardly be termed an aid to the maintenance or improvement of the efficiency of the troops. And finally, the pertinent Army Regulations forbade any practice of passing vehicles around and using them as Seabourn did here (p. 14), and his driving was therefore clearly unauthorized.

We do not mean to argue that no serviceman whose activity is in violation of a regulation can ever be held to be acting within the scope of his employment. Perhaps if the whole action is plainly for the benefit of the service, an incidental violation in means or method can be ignored. But certainly where, as here, the regulations reveal that a particular activity is definitely not beneficial to the service and is not to be undertaken, a

court would not be justified in holding the serviceman to be within his employment while carrying on that precise activity simply because there had grown up in his company a practice of violating and ignoring the regulation for personal ends.

CONCLUSION

For the reasons stated it is respectfully requested that the judgment of the district court be [redacted] affirmed

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APPENDIX

A. Sections 1346(b), 2674, and 2671 of Title 28 U.S.C. (the reenactment of the Federal Tort Claims Act, 62 Stat. 933, 982, 983), provide in pertinent part:

SECTION 1346. *United States as defendant.*

* * * * *

(b) Subject to the provisions of chapter 171 of this title, the district courts * * * shall have exclusive jurisdiction of civil actions on claims against the United States, for money damages, accruing on and after January 1, 1945, for injury or loss of property, or personal injury or death caused by the negligent or wrongful act or omission of any employee of the Government while acting within the scope of his office or employment, under circumstances where the United States, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred

* * * * *

SECTION 2674. *Liability of United States.*

The United States shall be liable, respecting the provisions of this title relating to tort claims, in the same manner and to the same extent as a private individual under like circumstances, but shall not be liable for interest prior to judgment or for punitive damages.

* * * * *

SECTION 2671. *Definitions.*

As used in this chapter and sections 1346(b) and 2401(b) of this title, the term—

* * * * *

"Employee of the government" includes officers or employees of any federal agency, members of the military or naval forces of the United States, and persons acting on behalf of a federal agency in an official capacity, temporarily or permanently in the service of the United States, whether with or without compensation.

"Acting within the scope of his office or employment," in the case of a member of the military or naval forces of the United States, means acting in line of duty.

B. Army Regulations 700-105 (30 June 1948) provide in pertinent part:

26. *Use of vehicles.*—* * *

b. Motor vehicles * * * will be operated * * * only if properly dispatched on WD Form 48 (Drivers' Trip Ticket and Preventive Maintenance Service Record), issued by the dispatching motor pool or under such instructions as the appropriate commander under existing authority may direct.

c. Motor vehicles will be used only for official business, including the special uses listed in paragraph 28.

* * * * *

28. *Special uses.*—Motor vehicles, when available without detriment to other official business * * * may be used by special direction of the commanding officer for the following purposes:

a. Authorized athletics.

b. Transporting personnel, including entertainers and party guests, and supplies and equipment in connection with authorized, organized, and

supervised recreational, welfare, and morale-building activities.

* * * * *

29. *Motor pools.*—* * *

d. Vehicles will be dispatched from pools to perform specific tasks, and will not be permanently allocated or assigned to any agency or individual, except as prescribed herin.

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